

**Notice of Allowability**

Application No.

09/625,080

Examiner

Jonathan Ouellette

Applicant(s)

BROWN, STEPHEN J.

Art Unit

3629

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/23/2007.
2. ☒ The allowed claim(s) is/are 16, 18 and 25-35.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 20070402, 20070720.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

## **DETAILED ACTION**

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.
2. Authorization for this examiner's amendment was given in a telephone interview with the Applicant's representative, Chad Swantz (Reg. No. 46,329), on 7/20/2007.
3. The application has been amended as follows:
4. Claim 28, line 3, add "a data collection element for" after "client device"; line 4, add ", said data collection element including a weight scale" after "population".
5. Claim 30, line 3, add "a data collection element" after "client device"; line 5, replace "said health-related information including weight of each individual" with "said data collection element including a weight scale"; and line 8, add ", and extracting the collected information from the data collection elements over a network, the collected information including weight of each individual" after "thereto".

### ***Response to Amendment***

6. Claims 1-15, 17, and 19-24 have been cancelled, and Claims 32-35 have been added; therefore, Claims 16, 18, and 25-35 are currently pending in application 09/625,080.

*Allowable Subject Matter*

**7. Claims 16, 18, and 25-35 are allowed.**

8. The following is an examiner's statement of reasons for allowance:

9. As per independent Claims 16, 18, 28, and 30, the prior art does not teach or suggest a method/system of aggregating information from individuals in a first or second separate population, said method comprising: the gathering of health-related information over a network from individuals through a client device coupled to a data collection element, said data collection element including a weight scale; analyzing the gathered data, and awarding a benefit to said first subpopulation or said second subpopulation based on the results of the comparison.

10. **Chait et al. (US 5,639,471)** discloses a method of aggregating information from individuals in a population (Clinical trial/study, C8-C9) thereof, said method comprising: b) prompting each individual for health-related information, and collecting the health-related information for each individual (patient evaluations, C63-C68); e) generating statistical information from said collected information (Clinical data analysis, C67-C68); and g) repeating steps a-d after a period of time has elapsed (each established period for 10 weeks, C25-C28), wherein said statistical information comprises a first statistical measure for a first subpopulation of individuals (Test group 1) within the plurality of individuals and a second statistical measure for a second subpopulation (Control group 2) of individuals with the plurality of individuals (C61-C69).

11. Chait fails to expressly disclose a client device associated with each individual for health-related data collection; a) coupling a client device to a data collection element for each of a

Art Unit: 3629

plurality of individuals in the population; c) sending the collected information from said client devices to a server device; and d) extracting the collected information from the data collection elements.

12. **Blank (US 5,913,826)** discloses a client device used to gather/store patient health-related information, and transferring the health-related information to a medical provider database/system (C19-C20).

13. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included a) coupling a client device to a data collection element for each of a plurality of individuals in the population; c) sending the collected information from said client devices to a server device; d) extracting the collected information from the data collection elements, as disclosed by Blank in the system disclosed by Chait, for the advantage of providing a method of aggregating information from individuals in a population, with the ability to increase the efficiency of the system/method by collecting patient/user information from remote (out of hospital) locations.

14. Chait and Blank fail to expressly disclose f) distributing the statistical information to the individuals.

15. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to publish the clinical trial/study results, especially to those who participated in the clinical/study. Furthermore, it would have been obvious to transmit the findings of the study electronically to the participant, as It was known at the time of the invention that merely providing an automatic means to replace a manual activity which

Art Unit: 3629

accomplishes the same result is not sufficient to distinguish over the prior art, *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

16. Chait discloses comparing the first statistical measure with the second statistical measure, and distributing a result of the comparison to the first subpopulation of individuals and to the second subpopulation of individuals (Chait: Clinical data analysis, C67-C68).
17. Chait and Blank fail to expressly disclose awarding a benefit to one or more of the individuals based on the result of the comparison.
18. **Mavis et al. (Mavis, Brian E; Stoffelmayr, Bertram E, “Multidimensional evaluation of monetary incentive strategies for weight control, The Psychological Record, Spring 1994)** discloses the advantages and method steps for offering monetary incentives to members of a health related study (weight loss), based on the user’s results/participation (pg.4-5).
19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included awarding a benefit to one or more of the individuals based on the result of the comparison, as disclosed by Blank in the system disclosed by Blank, in the system disclosed by Chait, for the advantage of providing a method of aggregating information from individuals in a population, with the ability to increase user participation and motivation by offering incentives to the users.
20. However, Chait, Blank, and Mavis fails to teach or disclose (neither together nor separately) a method/system of aggregating information from individuals in a first or second separate population, said method comprising: the gathering of health-related information over a network from individuals through a client device coupled to a data collection element, *said*


*data collection element including a weight scale (directly connected to the networked information gathering system); analyzing the gathered data, and awarding a benefit to said first subpopulation or said second subpopulation based on the results of the comparison, as disclosed by the independent claims.*

21. The remaining dependent Claims 25-27, 29, and 31-35 are considered allowable, as they are dependent and based off of an allowable independent claim.
22. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

23. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
24. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
25. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

July 21, 2007



JONATHAN OUELLETTE  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3600